

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 196 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI and

MR.JUSTICE A.R.DAVE

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

1 to 5 No

COMMISSIONER OF INCOME TAX

Versus

MUNIRKUMAR B DALAL TRUST

Appearance:

MR MR BHATT for Petitioner

MR HM TALATI for Respondent No. 1

CORAM : MR.JUSTICE R.K.ABICHANDANI and
MR.JUSTICE A.R.DAVE

Date of decision: 22/01/98

ORAL JUDGEMENT : [Per: R.K. Abichandani, J.]

1. The Income Tax Appellate Tribunal referred the following question for the opinion of this Court under Section 256 (1) of the Income Tax Act:

"Whether on the facts and in the circumstances of the case, the correct status of the assessee should be taken as an "Association of Persons" and that the assessee could be entitled in law to claim deductions under sections 80C & 80L of the Income Tax Act, 1961?"

2. It is pointed out to us that a similar question which had arisen before this court in CIT v. DEEPAK FAMILY TRUST NO.1, reported in 211 ITR 575, has been decided against the Revenue.

3. In CIT v. Deepak Family Trust No.1 (supra), the question that arose for consideration of the court was whether in a case where the assessee was a discretionary trust, it was entitled to deductions under Section 80L of the Act. The Court after reviewing the case law, held that the representative assessee in the case of discretionary trust must be regarded as an individual and trust would be entitled to the benefit of deductions under Section 80L of the act.

4. Since the matter is covered by the ratio of the decision in Deepak Family Trust No.1 (supra), following the said view, we answer the question referred to us in the affirmative in favour of the assessee and against the Revenue. The Reference stands disposed of accordingly with no order as to costs.

p.n.nair